

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41312 of 2023

Arising Out of PS. Case No.-48 Year-2023 Thana- KAMTAUL District- Darbhanga

Modassir @ Shekh Md. Modassir Son Of Md. Mustaque @ Md. Mistaque
Resident Of Village-Mahuli Nankar, P.S.-Jalley, District-Darbhangha

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Iqbal Asif Niazi
For the Opposite Party/s : Mr.Shantanu Kumar

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 18-07-2023 The matter has been placed under the heading
"To Be Mentioned" at the instance of the petitioner.

It is submitted by learned counsel for the petitioner that petitioner was granted the privilege of bail vide order dated 14.07.2023, keeping in mind the merits of the case, but due to typographical error, the case diary in connection with the present case was called for.

The aforesaid assertion of the learned counsel for the petitioner has been verified from the records and it was found that vide order dated 14.07.2023, the petitioner was granted bail.

In that view of the matter, let the order dated



14.07.2023 be read as :-

“Heard learned counsel for the petitioner and learned APP for the State.

The petitioner is languishing in custody in a case registered for the offences punishable under Sections 376, 341, 323, 506, 504/34 of the Indian Penal Code.

It is alleged against the petitioner that he enticed the informant and on false promise of love, he established forceful physical relationship with the informant and continued the same for long time. The petitioner also made obscene video of the informant and threatened of dire consequences, if she denies or disclose the same to anyone.

It is submitted by learned counsel for the petitioner that petitioner is innocent and he has falsely been implicated in this case. From the F.I.R itself, it appears that informant is mature aged about 18 years and she had developed the intimacy with the petitioner



on her own volition. The informant claims that petitioner established forceful physical relationship with her from March, 2022 to February, 2023 but she had not filed any complaint during that period which suggests that an afterthought story with full of concoction and fabrication were made before filing of the F.I.R. The fact of the case is that the informant being major girl had pressurized to marry with the petitioner and when the petitioner denied to get marry, this false case has been registered against him. The victim in her 164 Cr.P.C statement has also accepted the factum of love with the petitioner. The victim herself refused for her medical examination and in the absence of medical examination, the allegation of rape or sign of rape cannot be corroborated and the balance of convenience falls in favour of the petitioner. The petitioner is languishing in custody since 18.03.2023.

Considering the fact aforesaid and the period under custody, let the petitioner, above named, be



released on bail on furnishing bail bonds of Rs. 10,000/-
(Ten Thousands) with two sureties of the like amount
each to the satisfaction of learned Judicial Magistrate, 1st
Class, Darbhanga in connection with Kamtaul P.S. Case
No. 48 of 2023.”

The order dated 14.07.2023 stands modified to
the extent as indicated above.

(Sunil Kumar Panwar, J)

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